

JAMES KARNATH,	)	
	)	
Plaintiff,	)	CASE NO. C08-1002-RSM-BAT
	)	
v.	)	
	)	
TRACY DANIELS,	)	ORDER DENYING PLAINTIFF'S
	)	PENDING MOTIONS
Defendant.	)	
	)	

The Court, having reviewed plaintiff's two pending motions, does hereby find and ORDER as follows:

## ORDER DENYING PLAINTIFF'S PENDING MOTIONS

1           (1)     Plaintiff “Motion for Recognition of Sovereign American Status/Sovereign  
2 Immunity” (Dkt. No. 30) is DENIED. Plaintiff, by way of the instant motion, seeks release from his  
3 current detention based upon his sovereign immunity. (*Id.*) However, plaintiff fails to make clear  
4 what relevance the issues raised in his motion have to the matter currently pending before the Court.  
5 This is a civil rights action in which plaintiff alleges that Tracy Daniels, an employee at the  
6 Washington State Reformatory, violated plaintiff’s constitutional rights when he assaulted plaintiff  
7 and then retaliated against plaintiff for filing a grievance against him. Mr. Daniels’ alleged violation  
8 of plaintiff’s constitutional rights, even if ultimately established by plaintiff, would not entitle  
9 plaintiff to release from custody.

10           Moreover, plaintiff’s request for release from confinement is not cognizable in an action  
11 brought under § 1983. Where a prisoner challenges the fact or duration of his confinement, his sole  
12 federal remedy is a writ of habeas corpus, to which the exhaustion requirement applies. *Preiser v.*  
13 *Rodriguez*, 411 U.S. 475, 489-90 (1973). If plaintiff wishes to challenge the validity of his current  
14 confinement, he may file a separate federal habeas action under § 2254 once he has exhausted his  
15 claims in the state courts. Plaintiff may not incorporate his federal habeas claims into this civil  
16 rights action.

17           (2)     Plaintiff’s “Motion for Writ of Habeas Corpus, In Camera Interview, Ruling on Legal  
18 Status” (Dkt. No. 41) is also DENIED. Plaintiff appears to seek a writ of habeas corpus so that he  
19 may be transported to this Court for an evidentiary hearing. However, there is currently no  
20 evidentiary hearing scheduled in this matter and plaintiff fails to make clear why one might be  
21 necessary at this juncture.

22           (3)     The Court also notes that plaintiff apparently failed to serve copies of either of his  
23 motions on counsel for defendants as required by Local Rule CR 7(b)(1). Plaintiff is advised that  
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25  
26     ORDER DENYING PLAINTIFF’S  
PENDING MOTIONS

1 any future document submitted to the Court for consideration which is not accompanied by proof  
2 that it has been served on counsel for defendants will be immediately stricken from the record.

3 DATED this 1<sup>st</sup> day of December, 2008.

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6 BRIAN A. TSUCHIDA  
7 United States Magistrate Judge  
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ORDER DENYING PLAINTIFF'S  
PENDING MOTIONS